

REMARKS

The undersigned thanks the Examiner for withdrawing the previous prior art rejections.

Claims 1, 3, 5, 7-11 and 22 have been rejected as being obvious over Mokerji in view of Takemura. This rejection is respectfully traversed.

Claims 1 and 22 have been amended to recite “a *windable*, polymeric base material” wherein the term “windable” is supported by Figure 4 of the specification. The base material of Mokerji, i.e., substrate 18 or polymeric layer 20, is not a windable base material. Takemura relates to a reflector for circular polarized antenna and has been relied upon by the Examiner for teaching that a reflector could be coated with a weather resistance layer. Takemura too does not fill the gaps in Mokerji as it relates to “a *windable*, polymeric base material.” A *prima facie* case of obviousness requires that the prior art should teach or suggest the claimed invention *as a whole*. The obviousness rejection over Mokerji in view of Takemura should be withdrawn because the prior art would not have taught or suggested the claimed invention *as a whole* to persons of ordinary skill in this art.

Claims 1, 2, 5, 7-11 and 22 have been rejected as being obvious over Fujita in view of Nakanishi. This rejection is respectfully traversed.

Fujita is a 102(e) prior art with an effective filing date of May 24, 1999. The pending application in the U.S. is a national phase of PCT/JP99/07237 filed on December 22, 1999. Fujita is not prior art because the inventor has established by a Rule 131 Declaration that the date of invention of the claims rejected over Fujita is prior to May 24, 1999. Note that 35 USC 104(a)(1) permits an applicant to “establish a date of invention by reference to knowledge or use thereof, or other activity with respect thereto, in a foreign country ... [which] is a WTO member country” The invention of the claims rejected over Fujita occurred in Japan, which was a WTO member country as of May 24, 1999, because Japan has been a WTO member country since January 1, 1995. Enclosed herewith is a Declaration under Rule 131 to establish a date of invention prior to May 24, 1999.

In this case, there are two ways to establish a prior date of invention: (a) by showing a reduction to practice prior to May 24, 1999 or (b) by showing conception prior to May 24, 1999 coupled with due diligence from just prior to May 24, 1999 to a subsequent reduction to practice or to the filing of PCT/JP99/07237 filed on December 22, 1999. The inventor has established a prior date of invention by the former way.

The requirements for Rule 131 to antedate a reference are explained in MPEP 715.07. In particular, MPEP 715.07 states, "The essential thing to be shown under 37 CFR 1.131 is priority of invention and this may be done by any satisfactory evidence of the fact. FACTS, not conclusions, must be alleged." [Capitals in original.]

Furthermore, please note that MPEP 715.02 states:

If the affidavit contains facts showing a completion of the invention commensurate with the extent of the invention as claimed is shown in the reference or activity, the affidavit or declaration is sufficient, whether or not it is a showing of the identical disclosure of the reference or the identical subject matter involved in the activity. See *In re Wakefield*, 422 F.2d 897, 164 USPQ 636 (CCPA 1970).

The inventor on the pending application is Kenji HATADA. The inventor of JP 10-178411 and JP 11-141180, which were filed prior to May 24, 1999, is also the same Kenji HATADA. Both JP 10-178411 and JP 11-141180 include almost the same working examples as Example 1 of the pending application. See attached English translations of some of the working examples of JP 10-178411 and JP 11-141180 and compare with Example 1 of this application.

The Examiner has applied Fujita to show that Fujita in view of Nakanishi disclose the inventions of claims 1, 2, 5, 7-11 and 22. Example 1 of the present application supports claims 1, 2, 5, 7-11 and 22. The counterpart examples of JP 10-178411 and JP 11-141180 that are similar to Example 1 of the present application were obviously reduced to practice prior to May 24, 1999, because JP 10-178411 and JP 11-141180 were filed prior to May 24, 1999. Thus, the counterpart examples of JP 10-178411 and JP 11-141180 that are similar to Example 1 of the

present application *prove* that the inventions of claims 1, 2, 5, 7-11 and 22 were reduced to practice prior to May 24, 1999, by Mr. HATADA, who is also the *sole* inventor on JP 10-178411 and JP 11-141180. Therefore, the enclosed Rule 131 Declaration of Mr. HATADA proves that the inventions of claims 1, 2, 5, 7-11 and 22 antedate Fujita because it contains *facts* showing a completion of the invention commensurate with the extent of the invention as claimed. Note that JP 10-178411 and JP 11-141180 have been used in the Rule 131 Declaration as the underlying FACTS to support the assertion of Mr. HATADA that the inventions of claims 1, 2, 5, 7-11 and 22 were reduced to practice prior to May 24, 1999.

In the event that the transmittal letter is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952**, reference No. 360842007400. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: January 7, 2004

Respectfully submitted,

By: 

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DECLARATION

RECEIVED
JAN 14 2004
TC 1700

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name,

I believe I am the original, first and sole inventor of the subject matter which is claimed and entitled

MULTILAYER FILM AND PROCESS FOR PRODUCING THE SAME

☐ which is described in the specification and claims

☐ attached hereto.

☐ filed on _____

Application Serial No. _____

and was amended on _____
(if applicable)

☒ which is described in Japan Application No. JP10-178411 filed on June 25, 1998 and JP11-141180 filed on May 21, 1999.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

1. FULL NAME OF SOLE OR FIRST INVENTOR Kenji HATADA	INVENTOR'S SIGNATURE <i>Kenji Hatada</i>	DATE <i>Dec. 25, 2003</i>
RESIDENCE Shiga, Japan	CITIZENSHIP Japan	
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JP10-178411

(EXAMPLE 1 and COMPARATIVE EXAMPLES 1 AND 2)

Aluminum was deposited on a surface-treated, biaxially stretched polypropylene rolled film with a thickness of 18 μm (commercial name: Torayfan made by Toray Industries, Inc.) in a vacuum evaporator evacuated to 5×10^{-3} Pa such that the absorbance OD was 2.3. Next, an organic compound shown in Table 1 that was atomized with an ultrasonic vibrator was supplied to an organic compound vaporizer heated at 200°C and was deposited on the aluminum film through a slit provided in the organic vaporizer. The organic compound content supplied to the ultrasonic vibrator was controlled such that the thickness of the organic layer deposited was 0.06 μm .

Next, a high voltage of -10 KV was applied to a cathode that was disposed in and was insulated from a box anode filled with gaseous argon to generate glow discharge (plasma) in the anode. The organic layer on the deposited aluminum film was irradiated with high-energy electrons and argon ions accelerated by an electric field and partly conducted through a slit provided in the anode. This process was continuously performed for a film with a length of 21,000 m at a deposition rate of 500 m/min.

In EXAMPLE 1, 30 mol/mol percent of oxygen gas was added to gaseous argon. In COMPARATIVE EXAMPLE 1, the

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operation of the ultraviolet resonator stopped 10 minutes later from the start of the evaporation and thus the evaporation was stopped. The vacuum evaporator and the organic vaporizer were opened. A polymer was deposited in the interior. In COMPARATIVE EXAMPLE 2, the evaporation operation was stable for about 45 minutes, and a sample could be prepared substantially over the entire rolled film. COMPARATIVE EXAMPLE 2 employed a conventional aluminum-deposited film without a polymer layer.

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[Table 1]

	Organic monomer	Lamination ability			Oxygen barrier (cc/m ² /day)	
		Processability	Adhesion	Initial	6% stretched	
EXAMPLE 1	Linolenic acid	Satisfactory	Satisfactory	0.2	0.2	
COMPARATIVE EXAMPLE 1	Tetraethyleneglycol diacrylate	Wrinkle generation	Not satisfactory	0.1	0.1	
COMPARATIVE EXAMPLE 2	-	Satisfactory	Satisfactory	0.5	20	

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JP11-141180

[EXAMPLE]

Aluminum was deposited on a surface-treated, biaxially stretched polypropylene rolled film with a thickness of 18 μm in a vacuum evaporator evacuated to 5×10^{-3} Pa such that the absorbance OD was 2.3. Next, using an apparatus shown in Fig. 1, safflower oil atomized with an atomizer including an electrode that was energized to 2 KV was supplied to a vaporizer heated at 200°C and was deposited on the aluminum film through an opening provided in the organic vaporizer. The amount supplied was controlled such that the thickness of the safflower oil deposited was 0.07 μm . Next, radiofrequency waves with a peak voltage of 600 V were applied to a high-voltage applying electrode that was grounded in and was insulated from a box ground electrode filled with a gaseous mixture (oxygen concentration: 50 mol/mol percent) of argon and oxygen to generate glow discharge (plasma) in the ground electrode. The safflower oil layer on the deposited aluminum film was irradiated with the plasma partly conducted through a slit provided in the ground electrode to cure the safflower oil layer. This process could be reliably performed for a film with a length of 21,000 m at a deposition rate of 500 m/min.